

PART 2 PROCEDURE AND IMPLEMENTATION

2.1. Introduction

- 2.1.1. The District Plan is the primary tool for controlling the environmental effects of land use and subdivision activities in Buller. The West Coast Regional Council and the Department of Conservation also have management responsibilities in the District. The Plan recognises the need to integrate the management of resources across and among districts but also within and between agencies. The management approach adopted for the Plan is outlined in Figure 2.1.
- 2.1.2. Management is based on a system of identifying issues, objectives, policies, and implementation methods. Objectives represent overall environmental outcomes which the Council, in consultation with the community, has identified as being desirable and appropriate to the District. Policies relate to specific objectives and identify particular areas of proposed action by the Council. Implementation methods include rules and non-regulatory tools which control the different effects of land use activities and in some cases encourage environmental enhancement.

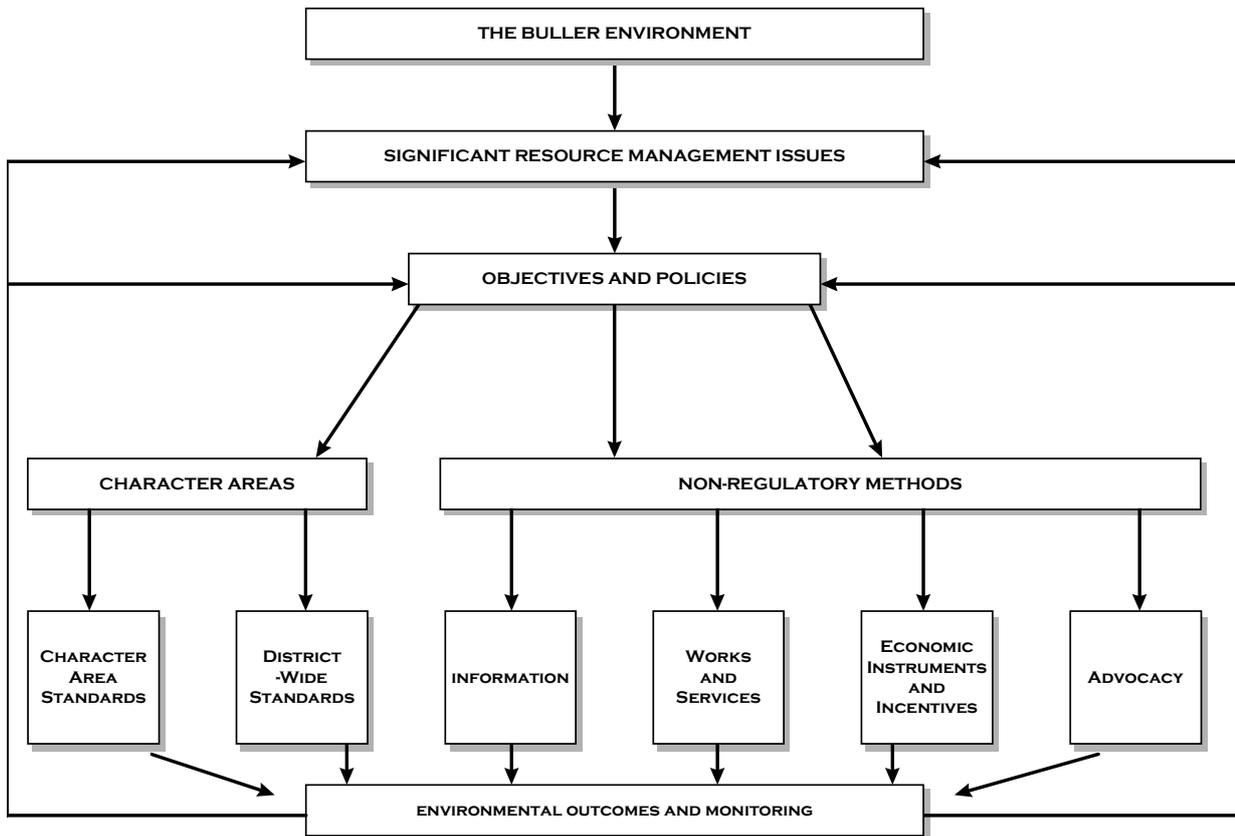
2.2. The Council's Corporate Plans

- 2.2.1. The framework for resource management is such that many of the District Plan objectives and policies will be implemented through provisions in the Annual Plan and other corporate plans of the Council and other agencies, in particular where this involves allocation of financial and human resources. In addition, the Annual Plan recognises many of the Council's and community's purely social and economic objectives which would be inappropriate for inclusion within the District Plan in terms of the purpose and principles of the Act. However aspects of annual planning which are relevant to objectives and policies contained in Part 4 of the Plan are identified.

2.3. Regional Policy Statement And Plans

- 2.3.1. The Act requires that the District Plan is to be consistent with any regional policy statement or regional plan.
- 2.3.2. In addition, the Regional Council is required to prepare a plan which addresses resource management issues in the Coastal Marine Area of the Region. Account has been taken of the Proposed West Coast Regional Policy Statement and Proposed Soil Conservation and Erosion Control Plan in the preparation of the District Plan. However, it is envisaged that amendments to the District Plan may be required as both the Policy Statement and Regional Plans are finalised or further plans are drawn up.

Figure 2.1: Buller District Plan - Management Approach



2.4. National Policy Statements And Standards

- 2.4.1. The District Plan must also be consistent with any national policy statement, or national environmental standards where these are prescribed. The Act specifically identifies the areas in which standards can be set (of particular relevance to the District Council is noise control and management of hazardous substances). The methods of implementing such standards can also be stated.
- 2.4.2. National policy statements set out policies on matters of national significance which are relevant to achieving the purpose of the Act. To date the New Zealand Coastal Policy Statement is the only national statement of policy to be notified under the Act. As with regional plans and statements, it is envisaged that amendments to the District Plan may be required when further standards are promulgated.

2.5. Other Relevant Legislation, Plans and Documents

- 2.5.1. When administering the Plan and assessing resource consent applications Council must also consider under Section 104 other relevant regulations, legislation, plans and documents including the following:
- Buller River Conservation Order;
 - Reserves Act 1977 - management plans;
 - National Parks Act 1980 - national park management plans;
 - Civil Defence Emergency Management Act 2002 - civil defence plans;
 - Conservation Act 1987 - conservation management plans and strategies;
 - Historic Places Act 1993 - register of historic places;
 - Any other relevant planning document recognised by an iwi authority, including regulations relating to conservation or management of taiapure or fisheries;
 - Hazardous Substances and New Organisms Act 1996;
 - Health Act 1956;
 - Local Government Act 1974 and 2002
 - Forest Act 1949, Amendments and Sustainable Management Plans
 - New Zealand Coastal Policy Statement.
 - Defence Act 1990
 - Te Runanga o Ngai Tahu Act 1996
 - Ngai Tahu Claims Settlement Act 1998
 - Unit Titles Act 1972
 - Building Act 2004
 - Railways Act 2005

2.6. The Treaty of Waitangi (Te Tiriti O Waitangi)

- 2.6.1. The Treaty of Waitangi (Te Tiriti O Waitangi) provides a basis for establishing a relationship between the Council and tangata whenua for the management of the District's resources. Section 8 of the Resource Management Act 1991 specifically requires territorial authorities to take into account the principles of the Treaty of Waitangi. The principles include those related to partnership and protection of Maori interests (including resources). In both the preparation of and within the District Plan itself, the Council has been eager to ensure that these principles are taken into account in the most appropriate and effective manner.
- 2.6.2. Section 6 of the Act also requires that persons exercising functions and powers under the Act shall recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.
- 2.6.3. From the initial stages of the review the Council has been committed to a programme of consultation with tangata whenua. Consultation has taken the form of hui, informal meetings and the continued exchange of information with runanga. The Council intends to continue consultation on a regular basis to ensure that the provisions contained within the Plan are effective and appropriate in fulfilling the intent of the Act with regard to tangata whenua interests and values. Consultation is also an integral part of the resource consent process, in particular where an activity has the potential to impact on ancestral lands, water, sites, waahi tapu and other taonga.

2.7. Duty To Avoid, Remedy Or Mitigate Adverse Effects

- 2.7.1. Controlling the environmental effects of activities is given considerable emphasis in the Act. Section 17 of the Act places a general duty on every person to avoid, remedy or mitigate any adverse effect on the environment whether or not the activity concerned is in accordance with a rule in the District Plan, a resource consent or relates to a use carried out before the Act came into force. Although this duty in itself cannot be enforced, the enforcement provisions contained in the Act do give the Council legal power to act in these situations.

2.8. Processes To Deal With Issues Crossing Territorial Boundaries

- 2.8.1. The characteristics of natural and physical resources are such that the management issues which relate to them may not necessarily be confined to one district or region. While the most obvious issue to fall within this category, water resource management, is primarily a Regional Council responsibility there are, or are likely to be, issues in the Buller District which cross over to other districts or regions or involve the management responsibilities of several agencies in Buller.

- 2.8.2. When dealing with issues which cross territorial boundaries which are not specifically covered in the Plan, the Council will:-
- (a) Initiate and maintain on-going consultation with neighbouring territorial authorities, the Regional Council and other relevant agencies on significant resource management issues of the District which have the potential to "spill over" to neighbouring districts or areas of responsibility.
 - (b) Conduct joint hearings with neighbouring regional and/or territorial authorities or relevant agencies, where possible, for activities which involve applications to more than one agency or council.

2.9. Applying For A Resource Consent

2.9.1. Applications

2.9.1.1. There are two types of resource consent which may be required for an activity which does not comply with the provisions for permitted activities of this District Plan, namely:-

- a land use consent
- a subdivision consent

2.9.1.2. A subdivision consent may include a condition which waives or reduces esplanade reserve or esplanade strip requirements. Other consents may be required from the Regional Council for activities involving the use of coastal resources, the taking of water, or discharges into water.

2.9.1.3. The Resource Management Act requires that information accompanying each application be sufficient to enable it to be readily understood. The type of information and the level of detail required will depend on the category of activity for which the application is made and the scale and magnitude of environmental effects which the activity may generate. Activities requiring a resource consent are generally those which are classed as: controlled, limited discretionary or discretionary. Activities which do not fall into one of these classifications and are likely to have significant adverse environmental effects will be non-complying activities. The type of consent required will be determined by criteria laid out in the Plan. Consent is not required for permitted activities. However a certificate of compliance for permitted activities can be requested by any person in relation to the activity they wish to carry out.

2.9.1.4. The Council shall from time to time set any fees or schedule of fees that it considers necessary in order to recover the reasonable costs of processing resource consent applications. In addition the Council

may charge resource consent holders for monitoring of a resource consent.

- 2.9.1.5. The extent and type of information to be supplied with applications for land use and subdivision consents is outlined in Part 13 and shall be on the application forms for resource consent available from Council offices.

2.9.2. Notification

2.9.2.1. The matter of whether a resource consent application will be notified will be determined in accordance with the provisions of Sections 95 to 95G of the Act and in accordance with the express provisions of the District Plan. Council will assess whether a consent application needs to be notified according to whether written approval has been obtained where necessary from every person considered to be adversely affected by the granting of the resource consent, and whether the adverse effect on the environment of the proposed activity will be minor. Notwithstanding these provisions, the Council may require any application to be notified if the Council considers special circumstances exist in relation to the application.

2.9.2.2. The Buller District Council will maintain a register or list of affected persons in regard to particular situations to guide prospective resource consent applicants with whom to consult in a given situation so that the Council can determine who is or is not affected.

2.9.3. Procedure for Processing Applications

2.9.3.1. Where an activity requires a concession, licence, permit or lease from the Department of Conservation to operate on public conservation land, it is advisable to obtain any necessary concession, licence, permit or lease before applying to the Council for a resource consent.

2.9.3.2. However in order to avoid duplication of information and facilitate streamlining of the application process, the Department of Conservation and the Council have agreed that, as far as possible, one environmental effects assessment will generally be acceptable for both applications provided that the information requirements specified by both have been fully met. Therefore, in preparing an assessment the applicant should consult with both organisations. Separate hearings will be held and separate documents issued, given that they cover different functions under different statutes.

2.10.Changes And Review Of The District Plan

2.10.1. Review of the District Plan

2.10.1.1. The Act requires that a full review of the Plan be commenced within 10 years of it becoming operative. The review of the District Plan will take into account the information collected under the District's environmental monitoring programme including the monitoring of the effectiveness of objectives, policies and rules in the Plan, and monitoring of the effectiveness of, and compliance with, conditions set on resource consents. If changes to the Plan are deemed necessary as a result of any review, they shall be carried out in the manner set out in the First Schedule of the Act. The Council is preparing a monitoring strategy which will outline Council's responsibilities under the Resource Management Act and how it will undertake its statutory obligations. A GIS database will be used for the storing of non statutory data, copies of which will be available to the public.

2.10.2. Changes to the District Plan

2.10.2.1. Any person (in addition to the Council) can make a request to change the District Plan under Section 73 of the Act. An application for a Plan Change must be in writing and contain the information outlined on the appropriate forms available from Council offices. The Council will consider whether to proceed with the Plan Change request and can either adopt it in whole, or in part as its own change, or process the application as a private request.

2.10.2.2. The Council may charge applicants for the cost of processing the Change and for the carrying out of its functions in relation to such applications.

2.11.Monitoring

2.11.1. Management decisions cannot be made without an up-to-date and appropriately detailed resource information base. The environment is not a static entity, but undergoes dynamic changes, often significant, over both space and time.

2.11.2. Other agencies have significant monitoring functions which also cover the Buller area. They include the Regional Council, central government departments and private organisations. The fulfilment of the District Council's monitoring functions will rely heavily on the information collected by these agencies. The Council shall focus on monitoring the exercise of resource consent applications and compliance with conditions and their effectiveness in meeting intended environmental outcomes.

2.11.3. The conditions placed on resource consents reflect the level of control of effects that the Council and community have decided is appropriate.

Monitoring is made more effective and simpler if the exact outcomes that are sought to be achieved by objectives and policies can be identified and clearly stated. This approach forms the basis for monitoring the effectiveness of existing policies in the Plan. Specific monitoring commitments are stated following the outcomes.

- 2.11.4. It is envisaged that the Regional Council and Government agencies (in particular the Department of Conservation) will provide any monitoring information on the wider state of the environment. The Council will continue to liaise and consult with these organisations and exchange information as appropriate and necessary. Together these aspects of the monitoring programme will form a useful and accurate base for review of the District Plan ten years from it being made operative.
- 2.11.5. The Council will undertake monitoring in accordance with the procedures outlined at the end of each chapter in Part 4. These monitoring procedures will enable the review of issues, objectives, policies and methods, the reasons for all those and the expected environmental results over the 10 year life of the Plan. Where monitoring brings to light matters which need short-term action, the Council will promote Plan Changes. It is intended that these procedures will give effect to the Act in that monitoring will lead to review of objectives, policies and methods to achieve integrated management.